

PUBLIC MEETING
August 7, 2001

Chair Karolin Loendorf called the meeting to order at 9:00 a.m.

Commissioners Murray and Varone were present. Others attending all or a portion of the meeting included K. Paul Stahl, Ron Alles, Sharon Haugen, Frank Rives, Jerry Grebenc, Audra Zacherl, Debbie Hoff, Jeff Levert, Tim Samp, John Traub, John Mooney, David Watts, Patricia Brady, Janet Getzenberg, Paul Brady, Derek Brown, Dave Hickman, Arlene Morrison, Harley Harris, Danial Ryan, William A. Hauer, Edward Martin, Rose Reilly-Martin, Irene Trach, Kirt Morrison, Albert Hoffer, J.J. Batley, Jeff Krause, Mamie Tiers, Reece Infanger, Ed Sterling, Rosemary Sterling, T. Blackman, Joyce Sterling Blackman, Brenda Blackman Griel, and Carole Byrnes.

Minutes. There were no minutes to approve.

Auditor Invoice Report. Audra Zacherl presented 680 claims for payment in the total amount of \$1,600,080.00. The report is available for inspection in room 345.

Proposed Subdivision, Summary Review to be Known as Richland Towers No. 1 Minor.

The applicant proposes to create one space for lease for a communication tower site (100'x100'). The tract would be developed with one space for lease for a 250 foot tall, self-supported communication tower and telecommunication shelters, which are similar to phone and electric utility boxes. A six-foot high, chain link security fence would enclose the lease space. The parcel is currently developed with an RV park, but the proposed lease site is an open field. No services, other than electrical services would be required for this development. Access to the lot would be from Lincoln Road connecting to an unnamed access road adjacent to the Lincoln Road RV Park. The proposal is located in the SW1/4 of Section 18, T11N, R3W; generally located north of Lincoln Road, west of North Montana Avenue and east of Lincoln Road RV Park. Richland Towers representative, Jeff Levert, was present and indicated his willingness to proceed. Frank Rives presented the staff report. This proposal would not require onsite wastewater treatment systems. The West Valley Fire District is recommending that the applicant contribute \$200 for the installation and maintenance of water supply points and submit a fuel modification plan for review and approval and that they provide a fire apparatus access road. The site will have visual impacts on surrounding properties. Lighting is typically required by the FAA only for towers over 250 feet in height. The light will be upsheilded to minimize visual impacts. In the event of a catastrophic event, such as collapse, the potential of damage or injury is low, because there are no buildings located within 250 feet of the tower base. Comments received from the Montana Aeronautics Division state the towers are an obstruction to safe air navigation because the Helena Regional Airport is located 7 miles away. This concern can be addressed by modifying condition 3 to read: Prior to construction, occupancy and operation of the leased space, the Applicant shall submit to the County Planning Department copies of all required and approved State of Montana, FAA and FCC permits for the proposal. Staff recommended approval of the proposal subject to the 12 conditions as outlined in the staff report.

Jeff Levert, GM Selby, 1045 West Galena, Butte. Mr. Levert introduced Tim Samp-Richland Towers Project Manager, Randy Nicholson-Montana Director for GM Selby, and Debra Hoff- Site Acquisition. He explained how the tower sites will work and how they will benefit Lewis and Clark County and its residents. The purpose of the tower is to carry digital PCS hardware to cover 8 miles to allow for large amounts of data at a rapid speed.

Commissioner Varone asked about the structural integrity of the towers in the event of a catastrophic event.

Tim Samp, Program Manager for Richland Towers, 4890 West Kennedy Blvd. Tampa, FL 33609. Mr. Samp stated that Richland Towers build all towers to EIA specification and in this area to a 75 mph wind capacity, and are designed for most catastrophic events. Towers are not built on hills because of the PCS signal frequency. RT will not build towers without full FAA and FCC approval.

Commissioner Loendorf referred to material from the Gainesville, Florida Cell Tower Ordinance. Mr. Samp stated RT builds towers throughout the United States and follow the local jurisdiction regulations.

The Chair opened the public hearing.

Harley Harris, Luxan & Murfitt, representing Ralph and Ann Marie Peters. The Peters do not object to the subject proposal. The Peters' concern is that if sites 1, 2, and 4 are approved that they will not be able to explore other alternatives. Mr. Harris provided the Commission with a photograph of a 250-foot tower.

Tim Samp discussed constructing an 80-foot vs. a 250-foot tower. Instead of one tower there would be multiple towers.

Commissioner Murray asked about the "invisible" tower construction by disguising it as a tree.

Mr. Samp stated this is a very expensive option and this option does not look good.

Commissioner Varone's concern is the location of the tower relative to the airport and the visual aspect.

Mr. Samp stated that RT conducts an Air Space Aeronautical Study on each site to determine if there will be any impact to local airports.

Hearing no other public comments, the Chair closed this portion of the hearing. Commissioner Murray moved that the Commission render a final decision on all of the tower proposals on August 10 at 10:30 a.m. at the public meeting in Augusta.

Commissioner Varone seconded the motion. Commissioner Loendorf opposed the motion asking for more time to review the proposals. The motion carried 2-1.

Harley Harris understood that RT will be formally withdrawing their application for tower proposal #3.

Proposed Subdivision, Summary Review to be Known as Richland Towers No. 2 Minor. The Commissioners will consider creating one space for lease for a communication tower site (100'x100'). The tract would be developed for one space for lease for a 190-foot high, self-supported communication tower. The lease space would be enclosed by a six-foot high, chain link security fence. The parcel is currently developed with a single family home, an on-site water well, an on-site wastewater treatment system and utilities. No services would be required for this development. Access to the lease parcel would be from Interstate 15, connection to the South Recreation Road and then via an existing jeep trail. Road construction and an approach permit would be required to access the site. The proposal is located in the SE1/4 of Section 21, T14N, R4W; generally located south of Wolf Creek and east of Frontage Road. Jeff Levert was present and indicated his willingness to proceed. Frank Rives presented the staff report. The site is accessible by an unimproved jeep trail. The jeep trail could affect the drainage patterns of the slope and therefore an erosion and sediment control plan might be required. Staff recommended approval of the proposed site.

Jeff Levert, 1045 W. Galena, Butte. Mr. Levert stated the challenge for Richland Towers will be getting an access into the site. With the help of MDT they have found a safe access site.

Tim Samp stated these tower sites are visited once a month for about an hour, but during the construction process a port-a-potty will be placed at the site.

The Chair opened the public hearing.

Dave Hickman, 2435 Recreation Road South, Wolf Creek. Mr. Hickman owns property next to this proposed site. He opposes the proposed site because the road will be in view of his property, the tower will be an eyesore, and the dust and the noise will be a nuisance. The site does not affect the ground water but the proposed road does, which is where his well is located.

Randy Nicholson, GM Selby, 1550 Harrison Avenue, Butte. GM Selby has discussed the visibility issues with the State and they have surveyed the site to make sure they stay on the landowners property to access the road.

Dave Hickman stated the access road abuts his parent's property. Realtors have told him this road and this tower will devalue his property.

Hearing no other public comments, the Chair closed this portion of the hearing. Commissioner Murray moved to render a final decision Friday, August 10, 2001 at 10:30 at the public meeting in Augusta. Commissioner Varone seconded the motion and it carried unanimously.

Proposed Subdivision, Summary Review to be Known as Richland Towers No. 3 Minor. The Commissioners will consider creating one space for lease that would be 400'x400' for the construction of a 250 foot tall cellular communication tower with three guy wires for support. Improvements within the lease space would consist of four 12-foot by 12-foot "telecom shelters and one 8-foot by 12-foot "telecom shelter." According to the applicant, the telecom shelters would be similar in nature to utility boxes such as those used for electrical and telephone and would be approximately 4-feet in height. The lease space would be enclosed by a six-foot high, chain link security fence. The anchors for the three guy wires would be located outside of the 400-foot by 400-foot lease site and fenced with 4-foot high chain link security fence. Access to the lease space is proposed to be via an access road from the Frontage Road. The proposal is located in the NW1/4 of Section 28, T15N, R3W; generally located east of the Craig Frontage Road approximately 4 miles south of Craig.

Jerry Grebenc reported that the applicants have requested that this proposal be tabled.

Jeff Levert requested an extension of the review period to August 31 with the public hearing to be conducted on August 28.

Commissioner Murray moved that at the request of the applicant, the Commission extend the review period to August 31 with the public hearing to be conducted Tuesday, August 28, 2001 at 9:00 a.m. Commissioner Varone seconded the motion and it carried unanimously.

Hearing no other comments, Commissioner Murray moved that the public hearing be closed until August 28, 2001. Commissioner Varone seconded the motion and it carried unanimously.

Proposed Subdivision, Summary Review to be Known as Richland Towers No. 4 Minor. The applicant proposes to create one space for lease for construction of a 190-foot tall self-supported cellular communication tower. Improvements within the lease space would consist of four 12-foot by 20-foot "telecom shelters and one 8-foot by 12-foot "telecom shelter." According to the applicant, the telecom shelters would be similar in nature to utility boxes such as those used for electrical and telephone and would be approximately 4-feet in height. The lease space will be enclosed by a six-foot high, chain link security fence. Access to the lease space is proposed to be from the existing access road from the Dearborn River Road. The proposal is located on lot 4, Block 2, of the Mid Canon Heights Subdivision No. 2 and is in the NW1/4 of Section 19, T16N, R2W; generally located north of Interstate 15 and south and adjacent to the Dearborn River Road and is the site of the Dearborn Fire Station.

Richland Towers Representative, Jeff Levert, was present and indicated his willingness to proceed. Jerry Grebenc presented the staff report. The applicant is proposing a 190-foot self-supported communication tower and telecom shelters. The lease space will be enclosed by a six-foot high chain link security fence and access to the lease space is via the existing access road into the fire department from the Dearborn River Road. No covenants affect the use of the property. The previous covenants expired January 1, 1991. Letters were sent to adjacent landowners notifying them of the proposal and a notice was published in the *Independent Record*. Staff received one phone inquiry, a petition in support with 125 signatures, and seven letters from area residents rescinding their opposition with signatures. Access to the site would be via a short access road from the Dearborn River Road, which is the primary access to the fire department. The fire department would receive lease payments from the applicant for the proposed lease space. No water facilities are proposed or are required. Public access to the site is restricted. A five-year weed management plan would be required for this development. The proposed tower would have severe visual impacts on the existing residential development northeast and west of the proposed facility. Visual impacts on the properties located to the south of the facility would be moderate. The DNRC uses the fire department site to land helicopters. The fire department has requested that the applicants install an upsheilded light atop the tower to provide a safety mechanism for air travel. To mitigate the visual impact of the tower, the area around the tower could be landscaped. The typical hazard associated with a tower and other related communication facilities is the risk of a collapse. The potential for damage or injury appears to be low because no development is located within 190 feet of the tower base, but the Dearborn River Road would be blocked in case of a collapse. The proposed creation of the lease space would not create significant demands on county services. Recreational and open space values were identified for the subject property and the surrounding area due to the Missouri River corridor. Staff recommended approval of the site plan subject to 10 conditions as outlined in the staff report.

Commissioner Varone asked if the individuals who opposed the construction of this structure reside in Mid-Cannon Heights Subdivision?

Jerry Grebenc stated there are people within the subdivision that do oppose the tower and he would need to research Commissioner Varone's question.

Commissioner Varone asked if the residents were informed that the 1991 covenants were to expire?

Jerry Grebenc stated the covenants are generally the responsibility of the individuals of a subdivision to start the process. There was a petition drive within the subdivision to extend the covenants, but that process failed.

Commissioner Murray stated the county line is approximately 500 feet.

Randy Nicholson, GM Selby, 1550 Harrison Avenue, Butte, stated the revenue generated by the lease payments will directly benefit the community and the Dearborn

Fire Department and will help lower taxes. Richland Towers will try to buffer the base with trees and landscape to help mitigate the visual impact that would be detrimental to the residents.

The Chair opened the public hearing.

Patricia Brady, 223 Cooper Drive, Cascade. Ms. Brady is the incoming President of the Dearborn Volunteer Fire Department and spoke in favor of the proposed communication tower. The majority of the canyon area will benefit from this proposal, because this area has very limited cell phone reception. The cell phone in the emergency fire truck is at times useless. The \$400 per month lease payments will greatly assist the fire department by giving raises to the volunteer firefighters. Every five years the lease payment will increase by 15%.

Nick Morrison, 1816 Sixth Street N.W., Great Falls. Mr. Morrison stated this is a win-win situation for everyone in the area. He read a statement written by John Mooney, out-going President of the Dearborn VFD. Fire department members are in favor of the proposed tower site. The increased revenue over the term of the lease is \$210,000. The fire station is in need of a tender and a new wildland fire engine. There will be space on the repeaters for other services. The majority of the homeowners approve this tower site. Twenty-nine people opposed the site and 125 people responded in favor of this site. He encouraged the Commission to approve the site.

Paul Brady, 223 Cooper Drive, Cascade. Past Vice-president VFD. The fire department is in desperate need for additional funds. The department needs a new tender and other fire fighting equipment. He does not consider this area pristine residential.

Jim Batley, 30 Eagle Rock Circle, Cascade. Mr. Batley opposes this proposed site and also represents a group of individuals who oppose the site. The names on the petition contain 35 signatures; today three more names have been added. Among those are 22 residents who are in view of the firehouse. The original petition submitted listed property devaluation as the reason for their opposition to the site. There was no public notification by the fire department. There is no guarantee as to how long this tower will serve. This tower represents an aviation and traffic hazard. This site is used by the DNRC as a helicopter-landing site.

Rick Grady, Helena Fire Supervisor, DNRC. Mr. Grady offered information regarding DNRC's air operations for fire suppression in the Dearborn area. The DNRC works with landowners when landing helicopters and they have expressed an interest in changing their site if necessary.

Paul Brady stated that the Ready-Corp evacuation helicopter service in Great Falls uses the south area of the lot. The proposed tower is 150-200 feet away to allow enough clearance to land.

Ed Martin, 48 Dearborn River Road, Cascade. Mr. Martin stated his aunt's brother donated the fire department land. He moved here for its visual view not to view a 190-foot tower. The fire department should begin fundraising efforts.

Dan Ryan, 1 Eagle Rock Drive, Cascade. Mr. Ryan owns the straw bale house. This area along the interstate has been designated as a federal scenic route. He opposes this site. This tower will affect his view of Eagle Rock and will have an adverse effect on his property. This is a private road to be cared for and maintained by the homeowners.

Jim Batley, 38 Eagle Rock Circle, Cascade. He would rather see the landowners pay an increase in fire protection fees than view a tower.

John Traub, 1315 Ponderosa Road, Helena. He believes an increase for public utilities is a good thing.

Hearing no other public comments, the Chair closed this portion of the hearing.

Commissioner Loendorf asked about the effects of lightning strikes.

Tim Samp stated if for some reason Richland Towers goes out of business, there are terms in the contract to renegotiate the lease with another carrier on the tower.

Commissioner Murray moved that the Commission render a final decision in Augusta on Friday, August 10, 2001 at 10:30 a.m. Commissioner Varone seconded the motion and it carried unanimously.

No additional testimony will be received.

The Commission recessed and reconvened at 12:10 p.m.

Requested Reconsideration of the Conditions of Approval for the Krause Acres Minor Subdivision. (cont from 7/31/01.) The applicant, Jeff Krause, has requested the removal of certain conditions of approval as provided in his letter of April 13, 2001. Commissioner Varone stated the applicant has provided sufficient evidence to warrant a new hearing. Commissioner Murray stated he does not find new evidence present. The request was considered at the time of the previous two public hearings.

Commissioner Varone moved that the applicant has provided sufficient evidence to reconsider the conditions of approval. Commissioner Loendorf seconded the motion. Commissioner Murray opposed the motion. The motion carried 2-1.

Mr. Stahl directed the Commission to provide staff with a written indication of the new evidence.

Commissioner Varone stated she looked at the original proposal in addition to new evidence and is reconsidering the conditions based upon the recommendation of the applicant.

Mr. Stahl stated that by this action, the Commission has changed the policy that has been in effect for two years and staff needs to know how to proceed on these types of requests.

After further discussion, then motion carried and staff will schedule a new public hearing.

Requested Reconsideration of the Conditions of Approval for the Traub Minor Subdivision. The applicant, John Traub, has requested a modification of the conditions of approval to remove all references to the erection of storage building/storage units on the one acre tract as provided in his memorandum.

K. Paul Stahl stated due to the change in standards set today, no new evidence needs to be presented.

John Traub asked to reconsider the application to modify, change, and/or remove all references to a 22-unit storage building. The party previously interested in purchasing the property is no longer interested. He would like to continue the residential use that has been there historically since 1978.

Frank Rives stated that we have to retain the portion of the summary review that pertains to the two rental units to retain two development rights. He cannot obtain final approval until the conditions of approval are met.

Commissioner Murray moved that sufficient new evidence and other evidence warrants reconsideration of conditions of approval. Commissioner Varone seconded the motion and it carried unanimously.

A public hearing will be scheduled.

There being no other business, the meeting adjourned at 12:35 p.m.